IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

CHRISTOPHER PROESCHER, Plaintiff v. REID HANNA, ADAM BELL, And RODNEY DANTZLER, Defendants.	)))))))))))))	 CIVIL ACTION FILE NO. ________________________

COMPLAINT

I. INTRODUCTION

1. This action, under 42 U.S.C. § 1983, seeks damages for the illegal detention, search, and arrest of Plaintiff, as well as the seizure of Plaintiff's personal property. Plaintiff also seeks a declaration that he may not lawfully be ejected from a city park while using the park for purpose to which it is dedicated and while complying with lawful park regulations. Plaintiff also seeks a declaration

that he may not be lawfully detained for carrying a firearm in a place where the carriage of firearms is not prohibited.

II. JURISDICTION & VENUE

2. This Court has jurisdiction under 28 U.S.C. § 1331 and 28 U.S.C. 1343.

3. Venue is proper because Defendants all are located in this District and in this Division, the events giving rise to this complaint occurred in this District and in this Division, and Plaintiff resides in this District.

III. PARTIES

4. Plaintiff Christopher Proescher is a resident of the State of Georgia and a citizen of the United States.

5. For all times relevant to this Complaint, Plaintiff possessed a valid Georgia weapons license ("GWL") issued pursuant to O.C.G.A. § 16-11-129.

6. Defendant Hanna is a security officer with Plaza Security, LLC ("Plaza").

7. Plaza has a contract with the City of Sugar Hill, Georgia, to perform certain security-related activities on behalf of Sugar Hill.

8. For all times relevant to this Complaint, Hanna was acting in his capacity as a private security officer with Plaza, performing the contract between Plaza and Sugar Hill.

9. For all times relevant to this Complaint, Hanna was acting under color of state law, as such expression is used in 42 U.S.C. § 1983.

10. Defendant Bell is an officer with the Gwinnett County Police Department.

11. For all times relevant to this Complaint, Bell was acting under color of state law, as such expression is used in 42 U.S.C. § 1983.

12. Defendant Dantzler is an officer with the Gwinnett County Police Department.

13. For all times relevant to this Complaint, Dantzler was acting under color of state law, as such expression is used in 42 U.S.C. § 1983.

IV. FACTUAL BACKGROUND

14. On April 20, 2012 at approximately noon, Plaintiff was exercising by walking along the walking path at Gary Pirkle Park in the City of Sugar Hill, Georgia.

15. Plaintiff was openly wearing a handgun in a holster attached to his belt.

16. Plaintiff was in possession of a valid GWL issued by the probate judge of Forsyth County, Georgia.

17. At the time of Plaintiff's walk, Hanna was on duty with Plaza, wearing a uniform and working in Sugar Hill.

18. While Plaintiff was walking, he was stopped by Defendant Hanna.

19. Hanna told Plaintiff that it was against a Gwinnett County ordinance to possess a firearm in a park.

20. Plaintiff told Hanna that Hanna was wrong.

21. After a brief conversation, Hanna told Plaintiff that Plaintiff was being "thrown out of the park" for being rude and because Plaintiff was carrying a firearm. Hanna further told Plaintiff that police officers were on their way because Hanna had called them before approaching Plaintiff.

22. To the extent that Plaintiff was rude, he was exercising his rights of freedom of speech, to assemble peaceably, and to petition the government for redress of grievances.

23. To the extent Plaintiff was carrying a firearm, he was exercising his right to keep and bear arms in case of confrontation.

24. At no point did Hanna actually tell Plaintiff to leave the park, nor did Hanna tell Plaintiff that Hanna had the authority of Sugar Hill to eject Plaintiff from the park.

25. On information and belief, Hanna does not have the authority of Sugar Hill to eject people from a Sugar Hill park.

26. Plaintiff was using the park for the purposes for which it is dedicated and was in compliance with lawful park regulations.

27. Within three minutes of Hanna's initial contact with Plaintiff, Plaintiff ended the conversation and headed for the park exit.

28. Hanna initially acquiesced to Plaintiff's ending the conversation, but within seconds called Plaintiff back to talk some more.

29. On information and belief, Hanna was attempting to delay Plaintiff's exit so that the Gwinnett County police would be able to talk to Plaintiff.

30. Hanna was continuing his conversation with Plaintiff at the time the Gwinnett County police Defendants arrived.

31. Defendant Bell arrived on the scene and immediately detained Plaintiff.

32. At the time Bell seized Plaintiff, Plaintiff was on the telephone with Sugar Hill parks staff, inquiring about the existence of any park regulations pertaining to wearing firearms in city parks.

33. Hanna told Bell the nature of Plaintiff's telephone call.

34. Bell ordered Plaintiff to end Plaintiff's telephone call, knowing that Plaintiff was on the phone with Sugar Hill parks staff and the purpose of Plaintiff's call.

35. Plaintiff specifically asked Bell if Bell were detaining Plaintiff, and Bell answered that he was.

36. Plaintiff asked Bell why Plaintiff was being detained, and Bell answered that Plaintiff was carrying a firearm in a park.

37. Bell seized Plaintiff's firearm and searched Plaintiff for additional weapons.

38. Bell had no reason to believe that Plaintiff was dangerous.

39. Defendant Dantzler arrived on the scene and took Plaintiff's firearm to run the serial number to see if it was stolen.

40. Plaintiff told Dantlzer that Plaintiff did not consent to the search of his firearm.

41. Plaintiff provided his GWL to Bell.

42. Bell and Dantzler demanded various information about Plaintiff, including whether Plaintiff worked, where he lived, how he had gotten to the park , why he was wearing a firearm, and to see his driver's license. Plaintiff declined to provide this information.

43. After some conversation, Bell arrested Plaintiff for criminal trespass.

44. On information and belief, Hanna told Bell or another Gwinnett County police officer that Hanna had ordered Plaintiff to leave the park and that Plaintiff had refused to do so.

45. On information and belief, neither Bell nor any other Gwinnett County police officer inquired into Hanna's authority to eject people from parks, nor did they question the legality of Hanna's alleged order for Plaintiff to leave the park.

46. Bell knew or should have known that, even if Hanna had authority to eject people from the park, Hanna could not exercise such authority for someone who was using the park for the purposes for which it is dedicated and in compliance with lawful park regulations.

47. Bell knew or should have known that, if Hanna had authority to eject people from the park, Hanna could not exercise such authority on account of a person's exercise of fundamental constitutional rights, such as the rights to freedom of speech, to assemble peaceably, to petition the government for redress of grievances, and to keep and bear arms in case of confrontation.

48. Dantzler searched Plaintiff's car without Plaintiff's consent and without a warrant.

49. Dantzler found a firearm and other personal property in the car and seized such firearm and other personal property.

50. Dantzler then impounded Plaintiff's car, which was legally parked in a parking space at Gary Pirkle Park.

51. Gary Pirkle Park is owned and operated by the City of Sugar Hill.

Count 1 – Violations of 14th Amendment

52. By detaining Plaintiff solely on account of his wearing a firearm in a city park, Bell violated Plaintiff's right to be free from unreasonable seizures of his person.

53. By ordering Plaintiff to end a telephone call with Sugar Hill parks staff, Bell interfered with Plaintiff's freedom of speech and to petition the government for redress of grievances.

54. By searching Plaintiff's person for additional weapons, Bell violated Plaintiff's right to be free from unreasonable searches.

55. By searching Plaintiff's car, Dantler violated Plaintiff's right to be free from unreasonable searches.

56. By seizing Plaintiff's firearm from Plaintiff's person, Bell violated Plaintiff's right to be free from unreasonable seizures.

57. By seizing a firearm and other property from Plaintiff's car and then impounding Plaintiff's car, Dantzler violated Plaintiff's right to be free from unreasonable seizures.

58. By arresting Plaintiff without probable cause and without a warrant, Bell violated Plaintiff's right to be free from unreasonable seizures of his person.

59. By falsely claiming to have ejected Plaintiff from the park for being rude and carrying a firearm, then falsely claiming that Plaintiff refused to leave, Hanna set in motion a series of events that resulted in the detention, searches, and seizures described above, and violated Plaintiff's due process rights, including his rights to freedom of speech, freedom to assemble peaceably, freedom to petition the government for redress of grievances, and to keep and bear arms in case of confrontation.

60. In the alternative, if Hanna did attempt to eject Plaintiff from the park, Hanna lacked authority from Sugar Hill to do so, and lacked the power to do so while Plaintiff was using the park for the purposes for which it is dedicated and in compliance with lawful park regulations, and he further lacked the power to do so on account of Plaintiff's exercising fundamental constitutional rights. Such an attempt to eject was therefore a violation of Plaintiff's due process rights, including his rights to freedom of speech, freedom to assemble peaceably, freedom to petition the government for redress of grievances, and to keep and bear arms in case of confrontation.

61. By seizing Plaintiff's firearms when such firearms are neither evidence of a crime nor contraband, Bell and Dantzler have violated Plaintiff's right to keep and bear arms.

62. Plaintiff has been damaged as a result of the violations of his constitutional rights.

63. Plaintiff would like to continue to use Gary Pirkle Park for the uses for which it is dedicated, and would like to continue to wear a firearm while doing so, but he is in fear of harassment, detention, search, seizure, arrest, and prosecution for doing so.

Prayer for Relief

Plaintiffs demand the following relief:

64. Damages in an amount to be determined at trial.

65. A declaration that Plaintiff may not be ejected from Gary Pirkle Park while using such park for the purposes for which it is dedicated and while complying with park regulations, even if he does so while armed.

66. Costs for bringing and maintaining this case, including reasonable attorney's fees.

67. A jury to try this case.

68. Any other relief the Court deems proper.

JOHN R. MONROE,

/s/ John R. Monroe

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